

Kenneth B. Black (05588)
ken.black@stoel.com
Michael R. Menssen (15424)
michael.menssen@stoel.com
STOEL RIVES LLP
201 S. Main Street, Suite 1100
Salt Lake City, UT 84111
Telephone: (801) 328-3131

*Attorneys for Defendants PolarityTE, Inc.,
Denver Lough, Michael Beeghley, Willie C.
Bogan, Jeff Dyer, Steven Gorlin, Jon Mogford,
John Stetson and Edward Swanson*

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

HENRY MONTHER, derivatively on behalf
of POLARITYTE, INC.,

Plaintiff,

v.

DENVER LOUGH, MICHAEL
BEEGHLEY, WILLIE C. BOGAN, JEFF
DYER, STEVEN GORLIN, JON
MOGFORD, JOHN STETSON, and
EDWARD SWANSON,

Defendants,

and

POLARITYTE, INC.,

Nominal Defendant.

**STIPULATED MOTION FOR
VOLUNTARY DISMISSAL OF ACTION
PURSUANT TO FEDERAL RULES OF
CIVIL PROCEDURE 23.1 AND 41**

Case No. 2:18-cv-00791-TC

Hon. Tena Campbell

Plaintiff Henry Monther (“Plaintiff”), derivatively on behalf of PolarityTE, Inc. (“Polarity” or “Nominal Defendant”), and defendants Denver Lough, Michael Beeghley, Willie C. Bogan, Jeff Dyer, Steven Gorlin, Jon Mogford, John Stetson, and Edward Swanson (collectively, the “Individual Defendants,” and together with Nominal Defendant, “Defendants”) have conferred, through their counsel, and agree that Plaintiff shall voluntarily dismiss the above-captioned consolidated action (the “Action”) pursuant to Rules 23.1(c) and 41(a) of the Federal Rules of Civil Procedure, without prejudice as to Plaintiff, Nominal Defendant, and/or any other Polarity stockholder.

WHEREAS, Plaintiff and Defendants (the “Parties”) agree that the dismissal is not, and shall not be deemed to be, an adjudication of the Action on the merits, and that each Party shall bear its own fees, costs, and expenses incurred in connection with the Action; and

WHEREAS, the Parties agree and respectfully submit that additional notice to Polarity stockholders of this dismissal beyond the public filing of the Order is unnecessary because: (i) the dismissal is without prejudice to the ability of any Polarity stockholder, or Polarity itself, to pursue the claims asserted in the Action; and (ii) there has been no settlement or compromise of the Action.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the Parties, through their undersigned counsel of record and subject to approval of the Court, that:

1. This Action shall be dismissed on the terms provided for in this Stipulation and [Proposed] Order, without prejudice as to Plaintiff, Polarity, and/or any other Polarity stockholder.
2. Notice to Polarity stockholders of this dismissal is unnecessary because (i) the dismissal is without prejudice to the ability of any Polarity stockholder, or Polarity itself, to pursue

the claims asserted in the Action; and (ii) there has been no settlement or compromise of the Action.

3. The Parties shall bear their own fees, costs, and expenses in connection with the Action.

A proposed order is attached hereto as Exhibit 1.

IT IS SO STIPULATED.

Dated: January 27, 2021

STOEL RIVES LLP

By /s/ Michael R. Menssen

Kenneth B. Black

Michael R. Menssen

Attorneys for Defendants POLARITYTE, INC,
DENVER LOUGH, MICHAEL BEEGHLEY,
WILLIE C. BOGAN, JEFF DYER, STEVEN
GORLIN, JON MOGFORD, JOHN STETSON,
and EDWARD SWANSON

Dated: January 27, 2021

JAMES DODGE RUSSELL & STEPHENS, PC

By /s/ Mark F. James (with permission)

Mark F. James

Attorneys for Plaintiff